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12 UNITED STATES DISTRICT COURT  
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
14 WESTERN DIVISION

15 RUTH JONES,	}	Case No. CV 10-01075 GAF (PJWx )
16 Plaintiff,		
17 v.		
18 BARACK HUSSEIN OBAMA II, etc.,	}	DATE: July 26, 2010
19 Defendant.		TIME: 9:30 a.m.
		CTRM: Roybal - 740
	}	Honorable Gary A. Feess

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23 **REPLY MEMORANDUM OF POINTS AND AUTHORITIES**  
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# **REPLY MEMORANDUM OF POINTS AND AUTHORITIES**

## **I**

### **INTRODUCTION**

Defendant Barack Obama has moved to dismiss Plaintiff's Complaint on the ground that it does not confer on the Court subject matter jurisdiction, whereas Plaintiff lacks standing and whereas it presents non-justiciable political questions. In her opposition, Plaintiff acknowledges that she is a private citizen seeking answers to her questions concerning Defendant's fitness to hold the Office of President of the United States, and yet Plaintiff contends that her complaint is not legally deficient. Nothing in Plaintiff's opposition, however, undermines either of the two independent grounds to dismiss as set forth in the moving papers, either of which is fatal to Plaintiff's claims.

Accordingly, this Court is respectfully requested to dismiss the Complaint and, because the legal defects are not subject to cure, to do so with prejudice.

## **II**

### **THIS COURT LACKS SUBJECT MATTER JURISDICTION**

#### **A. Plaintiff Lacks Standing**

##### **1. Plaintiff Cannot Show Injury-In-Fact**

As more fully set forth in Defendant's moving papers, Plaintiff lacks standing to bring this case because she can show neither injury-in-fact nor redressability, each of which is separately required to confer standing. *See, e.g., Valley Forge Christian College v. American's United for Separation of Church and State, Inc.*, 454 U.S. 464, 472, 102 S.Ct. 752, 758, 70 L.Ed.2d 700 (1982); *United Presbyterian Church in the U.S.A. v. Reagan*, 738 F.2d 1375 (D.C. Cir. 1984); *see also Newdow v. Bush*, 355 F.Supp.2d 265, 280-283 (D.D.C. 2005), and cases cited therein.

In her opposition, as in her complaint, Plaintiff fails to list any injury-in-fact which is concrete, which has affected her personally and uniquely or which is

1 fairly traceable to the allegations in her complaint. Plaintiff's assertions that  
 2 certain actions of President Obama have violated the law – such as signing an  
 3 executive order, chairing a general session of the United Nations or accepting the  
 4 Nobel Peace Prize – are insufficient to confer standing. *Compare, e.g.,* Opposition  
 5 at 1-3, 7 and 13 *with Schlesinger v. Reservists Comm. To Stop The War*, 418 U.S.  
 6 208, 217, 220, 94 S.Ct 2925, 41 L.Ed.2d 706 (1974) (injury to “the generalized  
 7 interest of all citizens in Constitutional governance” is too abstract to satisfy the  
 8 requirements of standing). Similarly, Plaintiff's tautology that her injury is not  
 9 speculative because it:

10 “*could be caused by the law as it will eventually be applied, by*  
 11 *collateral injuries, or because compliance with the law causes the*  
 12 *hardship and the only other choice is to break the law with the*  
 13 *resulting consequences of being prosecuted”*

14 is not supported by logic, grammar or case law. *Compare* Opposition at 14  
 15 (emphasis added) *with City of Los Angeles v. Lyons*, 461 U.S. 95, 103 S.Ct. 1660,  
 16 75 L.Ed.2d 675 (1983); *Nelson v. King County*, 895 F.2d 1248 (9<sup>th</sup> Cir. 1990) (fear  
 17 of enforcement actions, or future prosecution, must show a credible threat of  
 18 immediate future harm to confer standing to bring such actions).

19 Plaintiff's alleged injuries are simply too abstract, too generalized and too  
 20 speculative to show any injury-in-fact. Therefore, Plaintiff lacks standing and this  
 21 Court is deprived of jurisdiction.

## 22 **2. Plaintiff Cannot Show Redressability**

23 Even if Plaintiff could show injury-in-fact, which she cannot, Plaintiff fails  
 24 to show that her alleged injuries will be redressed by a favorable decision. *Lujan v.*  
 25 *Defenders of Wildlife*, 504 U.S. 555, 560, 112 S.Ct 2130, 119 L.Ed.2d 351 (1992).  
 26 Respectfully, this Court is without the power to issue the injunctive or declaratory  
 27 relief requested by Plaintiff to oust President Obama from Office. *Newdow v.*  
 28 *Bush*, 355 F.Supp.2d 265, 280-283 (D.D.C. 2005) and cases cited therein; *see also*

1 the discussion on the coordinate branches of government and the cases cited  
2 therein in the moving papers and immediately below.

3 In response, Plaintiff acknowledges the redressability requirement explained  
4 in *Lujan*, but then states that *she* will be redressed, as the remedy requested:

5 “is to remove the Defendant as the presumed president who is  
6 Illegitimate and a usurper as well; then every law and appointment  
7 made as a result of him will be null and void up through a new  
8 president being elected.”

9 Opposition at 8. Plaintiff fails to cite any authority, however, for the proposition  
10 that *this Court* has the ability to issue the orders necessary to administer the  
11 eviction of the President and the nullification of every law and appointment since  
12 his inauguration. Case law rejects the notion that this court or any court could  
13 issue such orders. *See, e.g., Newdow v. Bush*, 355 F.Supp.2d 265 at 280-283.

14 Accordingly, because Plaintiff can show neither injury-in-fact nor  
15 redressability, both of which are required and the lack of either of which is fatal to  
16 confer standing, this Court is without subject matter jurisdiction.

17 **B. This Case Presents Non-Justiciable Political Questions**

18 Because the Constitution makes a “textually demonstrable commitment” to  
19 the Congress and the Electoral College of the issues of whether one is fit to hold  
20 and retain the Office of President, Plaintiff’s Complaint presents non-justiciable  
21 political questions. *See Baker v. Carr*, 369 U.S. 186, 217, 82 S.Ct 691, 710, 7  
22 L.Ed.2d. 663 (1962); *see also United States v. Munoz-Flores*, 495 U.S. 385, 394,  
23 110 S.Ct. 1964, 109 L.Ed.2d 384 (1990) (the political question doctrine serves to  
24 “restrain the Judiciary from inappropriate interference in the business of the other  
25 branches of Government”); *see also Corrie v. Caterpillar*, 503 F.3d 974, 980, 982  
26 (9<sup>th</sup> Cir. 2007) (“disputes involving political questions lie outside the Article III  
27 jurisdiction of federal courts”).

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1 In her opposition, Plaintiff acknowledges that the sole issue presented by her  
2 Complaint arises out of whether President Obama is fit to hold office:

3 “The one question this whole case hinges on is the *judicial*  
4 interpretation of the meaning of ‘natural born’ citizenship which is a  
5 threshold requirement for one to hold the highest office.”

6 Opposition at 11 (emphasis added). Plaintiff ignores the plain text of the  
7 Constitution, however, which vests in Congress and the Electoral College the  
8 exclusive authority to determine one’s fitness to hold and to retain the Office of  
9 President. *See* U.S. Constitution, Article II, § 1, cl. 2; *see also Id.*, Amendment  
10 XXIII, § 1; Amendment XX, § 3; Amendment XXV, Article I, § 2, cl. 5; and  
11 Amendment XXV, Article I, § 3, cl. 6. Because the text of the Constitution vests  
12 the authority to determine one’s fitness to be President to a coordinate branch of  
13 government, this Court is precluded from providing a “*judicial* interpretation.”  
14 Instead, whether President Obama is fit to hold and retain his office presents  
15 political, non-justiciable questions to be determined first by the Electoral College  
16 and then by the Congress.

17 Accordingly, this Court is without subject matter jurisdiction.

### 18 III

### 19 CONCLUSION

20 Plaintiff’s confusion over the implementation of the text of the Constitution  
21 and the proper role of this Court seems to arise out of her assertion that “the  
22 Defendant is not in fact the President but a de-facto dictator and is in the Executive  
23 position as a usurper”; accordingly, “the Defendant would not be a ‘constitutional’  
24 president where the Congress could act under the U.S. Constitution and ‘impeach  
25 him.’” Opposition at 10-11. These claims cannot be raised by this Plaintiff,  
26 however, because she lacks the requisite standing to do so. Moreover, the  
27 resolution of such claims reposes exclusively with a coordinate branch of  
28 government, not with this Court.

1 For the foregoing reasons, therefore, this Court is respectfully requested to  
2 dismiss the Complaint with prejudice on the alternate and independent grounds that  
3 the Plaintiff lacks standing and that the issues presented in the Complaint raise  
4 non-justiciable political questions.

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7 DATED: July 19, 2010

Respectfully submitted,

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